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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,719	01/17/2006	Takayuki Kondo	Q92538	9863
23373	7590	04/01/2008	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			AMINZAY, SHAIMA Q	
ART UNIT	PAPER NUMBER		2618	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,719	<b>Applicant(s)</b> KONDO, TAKAYUKI
	<b>Examiner</b> SHAIMA Q. AMINZAY	<b>Art Unit</b> 2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 January 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/1648)           | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## ***DETAILED ACTION***

This office action is in response to applicant's amendment/remarks filed January 4, 2008.

### ***Response to Arguments***

1. Applicant argues that "the Examiner failed to indicate consideration of two of the references listed on the form. With respect to the foreign patent document EP 0 946 070, the Examiner indicated that no copy is present in the file". "Applicant hereby submits another copy of the reference". In response, Examiner did not fail to indicate consideration of two of the references listed on the form, Examiner considered the reference JP 2000-269881 that included a copy of the reference in the file, however, there is no copy of the reference EP 0 946 070 in the file, and the Examiner can not consider the reference without reviewing the information, and further, there is still no copy of this reference EP 0 946 070 in the file to be considered, therefore, the reference EP 0 946 070 is not considered.
  
2. Response to applicant's argument with respect to objected claim 1-8 is moot as the applicant's amendments to claims meet the requirements, therefore, Claim Objections with respect to claims 1-8 withdrawn.

3. Response to arguments with respect to rejected claims 1-8 under Claim Rejections - 35

USC 102(a) is **moot** in view of the new ground(s) of rejection necessitated by the claims amendments, therefore, the Claim Rejections-35 U.S.C. 102(a) with respect to claims 1-8 withdrawn.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamabe (Hamabe, U.S. Patent 6,405,021) in view of Czaja (Czaja, et al., U.S. Patent No. 6,937,583).

Regarding claim 1, Hamabe discloses a transmission power control method in a mobile communication system in which a mobile station connects with a plurality of radio base stations simultaneously (*e.g., Fig 1-15, 1:14-18, 4:46-57, the transmission power control in a mobile communication system which the mobile station connects simultaneously with multiple base stations*); in said radio base station (*e.g., Fig 1 and 11, 13:55-67, the base station 10*), said method comprising: a step of measuring a receiving level of an up-link

from the mobile station (*e.g., 55-64, the base station (10) measures the receiving uplink from mobile (30); and a step of transmitting up-transmission power instruction information for instructing that up-transmission power be lowered to the mobile station when the receiving level is not less than a predetermined target value (*e.g., 4:23-30, 13:60-67, 14:1-39, transmitting the power command (instruction information) for uplink (up transmission) power to be decreased when the receiving level is not below the predetermined target value*) and of transmitting up-transmission power instruction information for instructing that up-transmission power be raised to the mobile station when the receiving level is below the predetermined target value (*e.g., 4:31-37, 13:60-67, 14:1-39, transmitting the power command (instruction information) for uplink (up transmission) power to be increased when the receiving level is below the predetermined target value*):*

in the mobile station (*e.g., Fig 1, mobile station 30*), said method comprising:  
a step of receiving the up-transmission power instruction information from the plurality of radio base stations connected thereto (*e.g., 13:29-67, the mobile station receiving the uplink (up transmission) power command (instruction information) from multiple base stations (10s)*); and a step of determining up-transmission power using only up-transmission power instruction information [from radio base stations] having down-links of at least a predetermined communication quality (*e.g., 13:29-67, 14:1-39, the uplink power transmission is being determined using the uplink power instructions with the base station downlink predetermined communication quality (*e.g. SIR threshold and target SIR*)*), from among the up-transmission power instruction information received from the

radio base stations (e.g., 13:29-67, 14:1-39, selecting the power transmission command (instructions) received from the base station).

Hamabe does not specifically teach the instruction only from the radio base station, however, Hamabe teaches the mobile uplink transmission power may be determined according to base station (e.g., 24:39-67, 25:1-4).

In a related art dealing mobile communication transmission power control (e.g., Fig 1-6, 1:10-13, 30-38, 3:12-27), Czaja teaches the instruction only from the radio base station (e.g., Fig. 1-6, 3:12-27, 4:40-58, 9:30-34, the mobile station (10) adjusts the transmission power specifically (only) according to the base station commands (instructions)).

It would have been obvious to one of ordinary skill in the art at the time invention was made to have included Czaja's CDMA mobile communication transmission power control instruction only from the base station with Hamabe CDMA mobile communication transmission power control from the base station and mobile station to provide a mobile communication system transmission power control with improved quality of service and decreased transmission degradation (Czaja, e.g., 18:14-15, 18-20).

Regarding claim 3, Hamabe discloses a mobile communication system performing soft handover and transmission power control (e.g., Fig 1-15, 1:14-18, 57-67, 2:1-10, 4:46-57, 15:28-35, the mobile communication system (e.g., Fig. 7) transmission power control and soft handoff (handover)), comprising: a plurality of radio base stations for transmitting up-transmission power instruction information for lowering up-transmission power to a down-link when the receiving level of an up-link is not less than a

*predetermined up-target value (e.g., Fig 1-15, 4:23-30, 13:60-67, 14:1-39, multiple base stations (10s) transmitting the power command (instruction information) for uplink (up transmission) power to be decreased when the receiving level is not below the predetermined target value), and for transmitting up-transmission power instruction information for raising up-transmission power to the down-link when the receiving level is below the predetermined up-target value (e.g., 4:31-37, 13:60-67, 14:1-39, transmitting the power command (instruction information) for uplink (up transmission) power to be increased when the receiving level is below the predetermined target value); and a mobile station (e.g., Fig 1, mobile station 30) for determining up-transmission power using only the up-transmission power instruction information received [from radio base stations] having down-links of at least predetermined communication quality (e.g., 13:29-67, 14:1-39, the uplink power transmission is being determined using the uplink power instructions with the base station downlink predetermined communication quality), from among the up-transmission power instruction information received from the plurality of radio base stations that are connected by soft handover (e.g., 1:57-67, 2:1-10, 13:29-67, 14:1-39, selecting the power transmission command (instructions) received from the base station that are linking via soft handoff (handover)).*

Hamabe does not specifically teach the instruction only from the radio base station, however, Hamabe teaches the mobile uplink transmission power may be determined according to base station (e.g., 24:39-67, 25:1-4).

In a related art dealing mobile communication transmission power control (e.g., Fig 1-6, 1:10-13, 30-38, 3:12-27), Czaja teaches the instruction only from the radio base station

(e.g., Fig. 1-6, 3:12-27, 4:40-58, 9:30-34, the mobile station (10) adjusts the transmission power specifically (only) according to the base station commands (instructions)).

It would have been obvious to one of ordinary skill in the art at the time invention was made to have included Czaja's CDMA mobile communication transmission power control instruction only from the base station with Hamabe CDMA mobile communication transmission power control from the base station and mobile station to provide a mobile communication system transmission power control with improved quality of service and decreased transmission degradation (Czaja, e.g., 18:14-15, 18-20).

Regarding claim 6, Hamabe discloses a mobile station apparatus used in a mobile communication system performing soft handover and transmission power control (e.g., Fig 1-15, 1:14-18, 57-67, 2:1-10, 4:46-57, 15:28-35, the mobile station (30) in a mobile communication system (e.g., Fig. 7) performing transmission power control and soft handoff (handover)), comprising: a receiver for receiving signals of down-links from a plurality of radio base stations connected by soft handover (e.g., 1:57-67, 2:1-10, 4:46-57, 13:19-52, the mobile (30) receives the downlink signals from multiple base stations (10s) that are linked via soft handoff (handover)); an up-link transmission power calculation unit for determining up-transmission power using only up-transmission power instruction information extracted from signals received [from down-links] of at least a predetermined communication quality (e.g., 13:29-67, 14:1-39, the uplink power transmission is being determined using the uplink power instructions from the base station with predetermined communication quality), from among signals received by the

receiver; and a transmitter for transmitting the signals to the up-links with the up-transmission power determined by the up-link transmission power calculation unit (e.g., 13:29-67, 14:1-39, selecting the power transmission command (instructions) received by the receiver and transmitter to transmit the uplink signals that is determined using the uplink (up transmission) power command).

Hamabe does not specifically teach the instruction received from down-link, however, Hamabe teaches the mobile uplink transmission power may be determined according to base station (e.g., 24:39-67, 25:1-4).

In a related art dealing mobile communication transmission power control (e.g., Fig 1-6, 1:10-13, 30-38, 3:12-27), Czaja teaches the instruction only from the radio base station (e.g., Fig. 1-6, 3:12-27, 4:40-58, 9:30-34, the mobile station (10) adjusts the transmission power specifically (only) according to the base station commands (instructions)).

It would have been obvious to one of ordinary skill in the art at the time invention was made to have included Czaja's CDMA mobile communication transmission power control instruction only from the base station with Hamabe CDMA mobile communication transmission power control from the base station and mobile station to provide a mobile communication system transmission power control with improved quality of service and decreased transmission degradation (Czaja, e.g., 18:14-15, 18-20).

Regarding claims 2, 4, and 7, Hamabe in view of Czaja teach all the limitations of claims 1, 3, 6, and further, Hamabe teaches wherein, in determining up-transmission power in the mobile terminal (e.g., Fig 10b, 11:26-28, 13:30-32, 45-52, 60-67), a

determination is made to raise the up-transmission power when all pieces of the up-transmission power instruction information from the radio base stations having down-links of at least the predetermined quality are instructions for raising the transmission power (e.g., 4:31-37, 13:60-67, 14:1-39), and a determination is made to lower the up-transmission power when at least one piece of up-transmission power instruction information is an instruction for lowering the transmission power (e.g., 4:23-30, 13:60-67, 14:1-39)

Regarding claim 5, Hamabe in view of Czaja teach all the limitations of claim 3, and further, Hamabe teaches wherein said mobile station transmits down-transmission power instruction information (e.g., Fig 10b, 11:26-28, 13:30-32, 45-52, 60-67) for instructing that down-transmission power be lowered to an up-link when the receiving level of the down-link is not less than a predetermined down target value (e.g., 4:23-30, 13:60-67, 14:1-39, and transmits down-transmission power instruction information for instructing that down-transmission power be raised to the up-link when the receiving level is below the predetermined down target value (e.g., 4:31-37, 13:60-67, 14:1-39; and wherein said radio base station determines down-transmission power using the down-transmission power instruction information received from the mobile station connected thereto (e.g., 13:29-67).

Regarding claim 8, Hamabe in view of Czaja teach all the limitations of claim 6, and further, Hamabe teaches a down-link receiving level measurement unit for measuring a

receiving level of the down-link in the receiver (*e.g., Fig 1-15, 1:14-18, 57-67, 2:1-10, 4:46-57, 15:28-35*); and a down link receiving level comparison unit for transmitting down-transmission power instruction information (*e.g., 4:23-30, 13:60-67, 14:1-39*) for instructing that the down-transmission power be lowered to the up-link via the transmitter when the receiving level measured by the down-link receiving level measurement unit is not lower than a predetermined target value (*e.g., 4:23-30, 13:60-67, 14:1-39*), and for transmitting down-transmission power instruction information for instructing that the down-transmission power be raised to the up-link via the transmitter when the receiving level measured by the down-link receiving level measurement unit is below the predetermined target value (*e.g., 4:31-37, 13:60-67, 14:1-39*).

***Conclusion***

Applicant's amendment necessitated the **new ground(s)** of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 571-272-7874. The examiner can normally be reached on 7:00 AM -4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mathew D. Anderson can be reached on 571-272-4177. The fax number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shaima Q. Aminzay/  
Examiner, Art Unit 2618

March 24, 2008

/Matthew D. Anderson/  
Supervisory Patent Examiner, Art Unit 2618